

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:05-cr-184

-vs- : District Judge Walter Herbert Rice
MARK J. THORNTON, Magistrate Judge Michael R. Merz

Defendant.

DECISION AND ORDER

This case is before the Court on Defendant's Motion to Amend (Doc. No. 221). On September 13, 2011, Magistrate Judge Ovington ordered the United States to respond to that Motion on or before September 30, 2011 (Doc. No. 232). Instead of responding to the Motion, the United States treated the § 2255 Motion as having been amended and responded on the merits of the claims made in the proposed amended motion (Doc. No. 233).

Because the Government did not oppose the Motion and because it was filed within one year from the date the United States Supreme Court denied certiorari in this case, the Motion is granted and the United States is deemed already to have responded.

March 13, 2012.

s/ **Michael R. Merz**
United States Magistrate Judge